



28 NOV 2006

#12

## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON VA 22203

In re Application of :  
GARNIER et al. :  
Application No.: 10/523,639 : DECISION  
PCT No.: PCT/EP03/08928 :  
Int. Filing Date: 12 August 2003 :  
Priority Date: 14 August 2002 :  
Attorney Docket No.: BJS-620-360 :  
For: PRODUCTION OF MULTIMERIC FUSION :  
PROTEINS USING A C4BP SCAFFOLD :

This is a decision on applicants' "RENEWED PETITION UNDER 37 CFR 1.47(a)" filed 25 October 2006 in the United States Patent and Trademark Office (USPTO).

### BACKGROUND

On 12 August 2003, applicants filed international application PCT/EP03/08928, which designated the United States and claimed a priority date of 14 August 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 11 March 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 14 February 2005.

On 04 February 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the priority date.

On 18 July 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 21 February 2006, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a declaration of inventors, a petition/fee for a five-month extension of time, and a statement of Fergal Hill in support of the 37 CFR 1.47(a) petition.

On 25 April 2006, a decision was mailed dismissing applicants' petition under 37 CFR

1.47(a) for failure to provide factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

On 25 October 2006, applicants filed the instant "RENEWED PETITION UNDER 37 CFR 1.47(a)" which was accompanied, *inter alia*, by a declaration of inventors executed by previously non-signing inventors Laurence Garnier and Michel Julien.

#### DISCUSSION

Since a 37 CFR 1.497 declaration has been executed by all the joint inventors, the petition for status under 37 CFR 1.47(a) is moot. The application need not be returned to the Office of PCT Legal Affairs for any further consideration of the status under 37 CFR 1.47 and no such status should be indicated on this application file.

The declaration of inventors filed 25 October 2006 is in compliance with 37 CFR 1.497(a)-(b).

#### CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is **DISMISSED** as **MOOT**.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application.



Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459